

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

APR 16 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

DANIEL BEJENARIU,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 04-72523

Agency No. A78-372-755

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Argued and Submitted March 12, 2008  
San Francisco, California

Before: HUG, RYMER, and RAWLINSON, Circuit Judges.

Daniel Bejenariu, a native and citizen of Romania, petitions for review of the Board of Immigration Appeals's order summarily affirming the Immigration Judge's (IJ) denial of his applications for asylum, withholding of removal, and relief under the Convention Against Torture (CAT). We deny the petition.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

## I

We have jurisdiction to review the IJ's timeliness determination because the facts underlying that decision are undisputed. *Ramadan v. Gonzales*, 479 F.3d 646, 649 (9th Cir. 2007). The IJ was not compelled to find Bejenariu's delay excusable because Bejenariu knew he could seek asylum, but elected not to do so.

## II

The IJ also was not compelled to credit Bejenariu's testimony. Although Bejenariu claimed that he was actively involved in Roma political affairs in Romania and that he recorded complaints from Roma on behalf of the Roma Party, he does not speak Romany, the traditional language of the Roma; and he testified that there is only one Roma party in Romania when, in fact, there are many. These inconsistencies go to the heart of Bejenariu's applications for withholding of removal and CAT relief. Though he had the opportunity to do so, Bejenariu failed to offer a compelling explanation for either. *Jiamu Wang v. INS*, 352 F.3d 1250, 1259 (9th Cir. 2003).

PETITION DENIED.